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NORTHERN DISTRICT OF CALIFORNIA

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VIDEO GAMING TECHNOLOGIES, INC.,  
UNITED CEREBRAL PALSY OF GREATER  
SACRAMENTO, WIND YOUTH SERVICES,  
ROBERT FOSS, and JOAN SEBASTIANI

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

VIDEO GAMING TECHNOLOGIES,  
INC., dba VGT, Inc., a Tennessee  
Corporation; UNITED CEREBRAL  
PALSY OF GREATER SACRAMENTO,  
a California Non-Profit Corporation;  
WIND Youth Services, a California Non-  
Profit Corporation; ROBERT FOSS, an  
individual; JOAN SEBASTIANI, an  
individual,

Plaintiffs,

v.

BUREAU OF GAMBLING CONTROL, a  
law enforcement division of the California  
Department of Justice; MATHEW J.  
CAMPOY, in his official capacity as the  
Acting Chief of the Bureau of Gambling  
Control,

Defendants.

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EDL

CV CASE No. 08

2748

DECLARATION OF ROBERT FOSS IN  
SUPPORT OF PLAINTIFFS' MOTION FOR  
TEMPORARY RESTRAINING ORDER AND  
FOR ORDER TO SHOW CAUSE FOR  
PRELIMINARY INJUNCTION

Date:  
Time:  
Dept.:  
Judge:

1  
2 I, Robert Foss, declare as follows:

3 1. I am a resident of the City of Sacramento in Sacramento County, California. I am  
4 68 years of age. I have personal knowledge of the facts below and, if called as a witness, could and  
5 would competently testify thereto. I submit this declaration in support of my (and other  
6 plaintiffs') Motion for a Temporary Restraining Order and for Order to Show Cause for  
7 Preliminary Injunction.

8 2. I am legally blind (with extremely low vision) and have been since 2002. After  
9 working for PG&E for 30 years, I left the company in 1989. I spent the subsequent time working  
10 part-time and traveling for recreation quite a bit. I also sometimes visited bingo halls in the San  
11 Francisco Bay Area to play charity bingo.

12 3. When I lost nearly all of my vision in 2002, it was difficult to make the adjustment  
13 to living without normal eyesight. One thing that has helped quite a bit is my involvement with  
14 the Society for the Blind (SFB). For approximately 3 years, I have been active with SFB. First, I  
15 received training in non-sighted living skills from SFB. Then, I began training and mentoring  
16 other blind people myself.

17 4. One of SFB's important sources of revenue is their charity bingo operation. At  
18 least four days a week (Monday, Tuesday, Wednesday and Saturday), SFB hosts charity bingo  
19 events at the Sacramento Bingo Center at 3399 Arden Way in Sacramento. Since at least June of  
20 2007, I have been volunteering at the bingo events, helping SFB to run its bingo games and to  
21 host guests who come to play. I volunteer at SFB's charity bingo events four days a week:  
22 Monday, Tuesday and Wednesday from 5 p.m. to 9:30 p.m., and Saturday from 10 a.m. to 4 p.m.

23 5. When I am volunteering, I also sometimes enjoy actually competing in bingo  
24 games on the electronic bingo aids that are at issue in this case. I am informed and believe that  
25 the electronic bingo aids I use are manufactured by Video Gaming Technologies, Inc. Once you  
26 know your way around them, the electronic bingo aids are relatively easy for blind and low-vision  
27 people to use. The machines have large screen displays that I can interpret, they make certain  
28 sounds when your electronic cards contain the electronically called number, and you have a

1 “daub” button to press that automatically daubs those numbers. The machines make other sounds  
2 when your card hits a winning bingo pattern and then, to win the game, you have to press the  
3 button to call your bingo before any other winner does.

4 6. Not only do I enjoy playing bingo with these electronic bingo aids, but I have also  
5 encountered multiple other blind people who also play on these machines. Once an assistant or  
6 host describes to them how to play, they can play for as long as they like against whoever else is  
7 playing, blind or sighted.

8 7. I am able to effectively compete at bingo with sighted individuals when the game  
9 is played using electronic bingo aids. That way, I can identify called squares and winning  
10 patterns just as quickly as my sighted competitors. These electronic bingo aids put me on a level  
11 playing field with sighted individuals.

12 8. Non-electronic bingo aids, such as Braille bingo cards, raised numbers or other  
13 tactile-function bingo cards, would limit my ability to compete at bingo with sighted individuals.  
14 I would not be able to locate squares with called numbers or identify winning bingo patterns  
15 quickly enough to win. Of course, the same limitations would apply to other blind participants  
16 that I have observed at our SFB charity bingo games.

17 9. I enjoy playing bingo games on these electronic bingo aids and I plan to continue  
18 playing and volunteering at SFB bingo nights for the foreseeable future. It is a fun and exciting  
19 activity for me. I derive enjoyment from winning but, more importantly, I derive enjoyment from  
20 knowing that, if I choose, I can compete in the same games that I spend so much time supporting  
21 with my volunteer efforts.

22 10. It is very satisfying to me to know that the bingo games I help facilitate are open  
23 and accessible to blind people. I like knowing that the revenue from my bingo play is helping  
24 SFB and blind people in my community. I am quite sure that other blind bingo participants feel  
25 the same way.

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28

1 11. It would deeply offend and embarrass me if my access to playing bingo against  
2 and on the same level as sighted people were restricted or eliminated. I would lose a lot of the  
3 enjoyment I get from volunteering for bingo night if I and other blind folks were limited in our  
4 ability to compete against sighted participants.

5 I declare under penalty of perjury under the laws of the State of California that on the date  
6 written below, this statement was read to me and I understand its contents. I further declare under  
7 penalty of perjury under the laws of the State of California that the foregoing is true and correct.

8 Executed on this June day of June, 2008.

9  
10 Robert Foss  
11 Robert Foss

12  
13 I, ROBERT KELLY, certify that I read this Declaration to Robert Foss for  
14 verification before Mr. Foss signed the Declaration. Mr. Foss stated that he fully understands and  
15 agrees with all of the facts recited in this Declaration, as read by me.

16 Executed on this 15<sup>th</sup> day of June, 2008.

17  
18 Tamara Kelly  
19 NAME: